

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

**MAILED**

**JUN 22 2001**

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Ex parte RONALD A. KRAMER

---

Appeal No. 1999-1148  
Application 08/665,491

---

ORDER REMANDING TO EXAMINER

---

On February 9, 1999, a Reply Brief (Paper No. 22) was filed in response to the Examiner's Answer mailed December 9, 1998 (Paper No. 21). However, there is no indication in the record of whether or not the examiner has considered the Reply Brief. Section 1.193(b)(1) of the Code of Federal Regulations (1998) states:

(b)(1) Appellant may file a reply brief to an examiner's answer within two months from the date of such examiner's answer. . . .

Appeal No. 1999-1148  
Application 08/665,491

The primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief.

In addition, an amendment after final was filed by appellant on September 17, 1998 (Paper No. 17). The Examiner's Answer mailed December 9, 1998 (Paper No. 21) indicated that this amendment has been entered. A review of the record indicates the amendment was not entered.

Finally, on September 23, 1998, appellant submitted one copy of an Appeal Brief (Paper No. 18). The Appeal Brief is defective because the three copies of the Brief required under 37 CFR § 1.192(a) have not been supplied. Also please see 37 CFR § 1.52(b) regarding paper size requirements.

Accordingly, it is

ORDERED that the application is remanded to the Examiner:

1. for proper response to the Reply Brief filed February 9, 1999 (Paper No. 22);
2. for entry of the amendment filed September 17, 1998 (Paper No. 17) and for notification to appellant in writing of the action taken;

Appeal No. 1999-1148  
Application 08/665,491

3. for notification to appellant to submit two additional copies of the Appeal Brief filed September 23, 1998 (Paper No. 18); and

4. for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

DALE SHAW

Program and Resource Administrator  
(703) 308-9797

DS:psb

cc: Hudak & Shunk Co.  
Suite 808  
7 West Bowery Street  
Akron, OH 44308-1133